

REQUEST FOR PROPOSAL



THE STATE BAR OF CALIFORNIA

This document is a Request for Proposal ("RFP") for the provision of Overnight Mail and Package Delivery between The State Bar of California's offices in San Francisco and Los Angeles. This RFP seeks to receive bids for a two (2) year contract with an additional one (1) year option to extend based upon quality service.

Please submit four (4) copies of your proposal in a sealed envelope. The proposal must be received at the State Bar offices no later than **5:00 p.m. on Friday, June 25, 2004**. All responses to the RFP shall be submitted to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attn: Liz Avila, Supervisor, Office and Reception Services
E-mail: liz.avila@calbar.ca.gov
(415) 538-2329

I. INTRODUCTION

The State Bar of California ("the State Bar"), created in 1927 by the Legislature and adopted into the California Constitution, is a public corporation within the judicial branch of state government. In accordance with statute and the State Bar's procurement policies, contracts of \$50,000 or more are subject to formal competitive bidding. As a governmental agency, the State Bar regularly receives favorable governmental pricing and contract terms.

The State Bar is seeking proposals for the pick up of an average of 230 pounds of mail after 5:00 p.m. each day at its location at 180 Howard Street in San Francisco to be delivered to its location at 1149 South Hill Street in Los Angeles by 8:00 a.m. the following day. Similarly, The State Bar of California requires the pick up of an average of 70 pounds of mail after 5:00 p.m. each day at its location at 1149 South Hill Street in Los Angeles to be delivered to its location at 180 Howard Street in San Francisco by 8:00 a.m. the following day. In addition, there will be a pick up once or twice a week of an average of 15 pounds from 1149 South Hill Street in Los Angeles at 5:00 p.m., to be delivered the next day to the Supreme Court of San Francisco located at 350 McAllister Street, San Francisco, CA, 94102 at 8:00 a.m.

A proposal shall constitute an irrevocable offer for 45 business days following the deadline for its submission. Reference to a certain number of days in this RFP shall mean business days unless otherwise specified.

Contact with State Bar personnel in connection with this RFP may not be made other than as specified in this RFP. Unauthorized contact of any State Bar personnel may be cause for rejection of a bid.

II. GENERAL INFORMATION

A. Submission Requirements

To be considered responsive, a proposal must contain all of the following:

1. A brief description of the history and organization of the proposer's firm, and of any proposed subcontractor.
2. Copies of business licenses, professional certifications or other credentials, together with evidence that proposer, if a corporation, is in good standing and qualified to conduct business in California.
3. The most recent (2) two years' annual reports, or comparable document, including detailed current profit and loss, assets and liabilities, and other relevant financial data.
4. A description of similar projects completed by the proposer within the past three years.
5. Qualifications, background and experience of the vendor and other staff proposed to work on the project.
6. References with contact information from organizations that are currently utilizing similar services and have been customers for a minimum of 12 months.
7. Detailed cost proposal to be submitted on Attachment A.

B. Rejection of Proposals

The State Bar reserves the right in its sole discretion to reject any or all proposals in whole or in part, without incurring any cost or liability whatsoever. All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement of the RFP, or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a proposal is not in substantial accord with RFP requirements.

Immaterial deviations may cause a bid to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a proposer from full compliance with the RFP requirements.

Any proposal may be rejected where it is determined to be not really competitive, or where the cost is not reasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

C. Evaluation Process and Highest Scored Proposer

An evaluation team will review in detail all proposals that are received to determine the Highest Scored Proposer ("HSP").

The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, technical requirements, the review team's assessment of the quality and performance of the equipment and services proposed, and cost.

During the evaluation process, the State Bar may require a proposer's representative to answer questions with regard to the proposal and/or require certain proposers to make a formal presentation to the evaluation team and/or the State Bar Senior Executive Team. The State Bar may also have discussions with those proposers falling within a competitive range, and request revised pricing offers from such proposers and make an award and/or conduct negotiations thereafter.

The following criteria will be used in reviewing and comparing the proposals and in determining the HSP. The weight to be assigned to each criterion appears following each item.

1. Responsiveness of the proposal to original specifications set forth in the RFP, including agreement with the State Bar's contracting requirements: 15%
2. The technical ability, capacity, and flexibility of the proposer to perform the contract in a timely manner and on budget, as verified by, e.g., the quality of any demonstration, client references, demonstrated success in projects with similar requirements and any other contracts with the State Bar: 35%
3. The financial viability of the proposer as evidenced by standard financial reports and by related factors such as its business plan, market position, and strategic partnerships: 15%

4. The total cost of the proposal solution. Costs will be evaluated only if a proposal is determined to be otherwise qualified. Costs should be itemized by type to allow the State Bar to implement the solution over the term of the contract: 35%

D. Award and Execution of Contract

Subject to the State Bar's right to reject any or all proposals, the HSP will be awarded the contract. Notice will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and written notice sent to proposers on or about July 9, 2004 of the Bar's intention to award the contract to the HSP. It is anticipated that final selection of the HSP will be made by July 16, 2004. The evaluation team will select a winning proposal subject to approvals granted by the Board of Governors. Upon selection, the State Bar and the selected Vendor will enter into good faith negotiations on a contract containing, without limitation, the Statement of Work and Contracting Requirements sections below.

No contract or agreement, express or implied, shall exist or be binding on the State Bar before the execution of a written contract by both parties. If agreement on the terms of such a contract cannot be reached after a period deemed reasonable by the State Bar in its sole discretion, the State Bar may enter into negotiations and sign a contract with any other proposer who submitted timely, responsive and responsible proposals to this RFP.

If, after the State Bar and the HSP agree to terms and execute a contract, that contract is terminated for any reason, the State Bar may, in its sole discretion, either enter into negotiations with the next highest scored proposer, or issue a new RFP and begin the proposal process anew.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any other matter in connection with the selection process, should be addressed in writing to Sharon Pearl-Jacobvitz, Director, Real Property.

Where written notice is required in this RFP, the notice must be sent by U.S. mail **and** either facsimile or e-mail.

E. Errors in the RFP

If a proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the proposer should immediately provide the State Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all potential proposers to whom the RFP was sent.

If prior to the date fixed for submissions, a proposer knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the proposer shall bid at its own risk, and if, awarded the contract, shall not be entitled to additional compensation or time by reason of the error or its later correction.

F. Questions Regarding the RFP

Any technical questions regarding the RFP may be directed in writing only to: Liz Avila, Supervisor of Office and Reception Services, telephone 415/538-2329, fax 415/538-2005, email liz.avila@calbar.ca.gov or Sharon Pearl Jacobvitz, Director, Real Property Operations, State Bar of California, 180 Howard Street, San Francisco. CA 94105-1639, telephone 415/538-2340, fax 415/538-2005, email sheri.pearl@calbar.ca.gov

Questions and answers regarding the RFP will be shared with all proposers.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the proposer may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the proposer must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the proposer will be notified.

A proposer who believes that one or more of the RFP's requirements is onerous or unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the RFP be changed. The request must set forth the recommended change and reason for proposing the change. Any such request must be received by the State Bar within 3 days of the proposer's receipt of the RFP, but in no event later than 5 days before the deadline for submitting proposals.

G. Addenda

The State Bar may modify the RFP prior to the date fixed for submission by mailing, e-mailing or faxing an addendum to the proposers to whom the RFP was sent. If any proposer determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than three (3) days following the receipt of the addendum.

H. Withdrawal and Resubmission/Modification of Proposals

A proposal may be withdrawn at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the proposer. The proposer may thereafter submit a new or modified proposal, provided

that it is received at the State Bar no later than the deadline.

Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins

I. Protest Procedure

A proposer may protest the award if it meets all the following conditions:

1. The proposer has submitted a proposal that it believes is or should have been the HSP, under the criteria set forth above;
2. The proposer believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
3. The proposer believes that the State Bar has incorrectly selected another proposer.

A proposer qualified to protest should contact Bill Brauer at the State Bar of California, telephone: 415/538-2543, e-mail: bill.brauer@calbar.ca.gov to attempt an informal resolution. If (s)he is unable to resolve the protest to the proposer's satisfaction, the proposer must file a written protest within 5 days of the notice of intention to award contract. The written protest must state the facts surrounding the issue and the reasons the proposer believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attention: Sam Quan, Acting Chief Financial Officer

Protests will be reviewed and decided by the State Bar's Award Protest Team within 30 days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

J. News Releases

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

K. Disposition of Materials

All materials submitted in response to an RFP will become the property of the State Bar of California and will be returned only at the State Bar's option and at the expense of the proposer. One copy of each proposal will be retained for official files and become a

public record. Specific limited pages of a proposal, not including proposed cost and compensation may be marked as proprietary and confidential. The proposer's consent will be requested before release of such pages to non-State Bar personnel. By submitting a proposal, a proposer agrees to these terms and waives any right to pursue a cause of action for damages incurred as a result of the release of any information contained in a proposal.

III. STATEMENT OF WORK

The State Bar is seeking proposals for the performance of the following services:

1. Pick up an average of 230 pounds of time sensitive mail and packages between 5 p.m. and 6 p.m. each weekday except Holidays, Monday through Friday, from the front desk security guard at the State Bar's offices at 180 Howard Street in San Francisco, transport and deliver said mail and packages to the front desk security guard at the State Bar's offices located at 1149 South Hill Street in Los Angeles before 8:00 a.m. the following business day.
2. Pick up an average of 70 pounds of time sensitive mail and packages between 5 p.m. and 6 p.m. each weekday except Holidays, Monday through Friday, from the front desk security guard at the State Bar's offices at 1149 South Hill Street in Los Angeles, transport and deliver said mail and packages to the front desk security guard at the State Bar's offices located at 180 Howard Street in San Francisco before 8:00 a.m. the following business day.
3. Each day of pick-up, and for each Originating Location, prepare a bill of lading listing each box of mail being shipped.
4. Vendor shall be solely responsible for all transportation, storage (if required) and other costs and incidental expenses with respect to the performance of Services.

IV. CONTRACTING REQUIREMENTS

Upon selection of a vendor, the terms set forth in this RFP are to be embodied in a definitive agreement containing such additional covenants and other provisions as may be mutually acceptable. If appropriate, the State Bar's first choice is to incorporate the master purchasing terms and conditions applicable to the State of California to the State Bar's agreement with the vendor.

The State Bar contemplates that, in addition to the terms described above in this RFP, final agreement between the State Bar and the selected vendor will include, without limitation, the following terms. Submission of a proposal shall constitute agreement to contract on these terms, except for any term specifically reserved in the proposal for future negotiation.

A. Time of Essence

Time is of the essence with respect to the vendor's performance of the services and equipment to be provided in the final agreement.

B. Warranties and Representations

The vendor will represent, warrant and covenant that the vendor and the vendor's personnel, including subcontractors, if any, possess the expertise, experience and resources necessary to expertly and efficiently provide the services required under the Agreement in a diligent, timely and professional manner, consistent with the highest standards of the industry. The vendor will agree to supply at all times an adequate number of well-qualified personnel to perform these services. The vendor will warrant that all services provided shall be in conformance with the specifications provided by the State Bar. The vendor will also provide designated contact persons who will be available and empowered to immediately remedy any non-conformity with these warranties.

C. License

Vendor will represent and warrant that the Vendor holds all licenses, permits or special licenses necessary to perform the services pursuant to this agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license and shall keep and maintain all such licenses, permits or special licenses in good standing and in full force and effect at all times while the Vendor is performing the services pursuant to this agreement.

D. Equipment, Tools, Supplies

The vendor will supply all equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services and insurance required to perform the services. The vendor is not required to purchase, rent or hire any equipment, tools, supplies, offices, transportation, personnel, insurance or instrumentalities from the State Bar. The State Bar has no obligation whatsoever to provide any equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services or insurance required to perform services under this agreement.

E. Indemnity Obligations of Vendor

To the fullest extent permitted by law, the vendor will agree to protect, indemnify, defend and hold the State Bar and the State Bar's Board of Governors, officers, employees, agents and representatives and each of their successors and assigns (the "Indemnities") entirely harmless from and against any and all claims, actions, demands, proceedings, liabilities, damages, judgments, fines, penalties, settlements, costs and charges, including, without limitation, attorneys' fees and expenses, arising directly or indirectly from or in connection with (a) any breach of the Agreement, (b) any actual or

alleged negligent act, negligent error or omission, intentional misconduct of, or violation of any law by the vendor, the vendor's employees, subcontractors, agents, representatives or assigns (collectively, the "Vendor's Agents") in the performance or non-performance of the professional services required to be performed by the vendor under the Agreement; or (c) the State Bar's enforcement of its rights under this indemnity provision. The vendor will agree that its obligations under this indemnity will survive the expiration and termination of this agreement.

In the event both the State Bar and the vendor are named as defendants in the same civil action, and the State Bar determines that a conflict of interest exists between the parties, the vendor will agree to provide, at its own cost, independent counsel for the State Bar. The State Bar may, at its option, designate its Office of General Counsel as equal participating counsel in any litigation wherein the vendor defends the State Bar.

F. Insurance Obligations of Vendor

The vendor will provide and keep in full force and effect during the term of this agreement, at the vendor's own cost and expense, the following insurance policies for the joint benefit of the vendor and the State Bar, with an insurer reasonably acceptable to the State Bar:

1. Commercial general liability insurance with a general aggregate limit (other than products/completed operations) of at least Two Million Dollars (\$2,000,000.00); at least One Million Dollars (\$1,000,000.00) personal and advertising injury limit; at least One Million Dollars (\$1,000,000.00) premises and operations limit; at least One Million Dollars (\$1,000,000.00) each occurrence limit;
2. Workers' compensation coverage as required by law, together with employer liability coverage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence.
3. Comprehensive automobile liability insurance covering owned, leased, hired and non-owned vehicles with at least One Million Dollars (\$1,000,000.00) combined single limit.

The vendor will deliver to the State Bar offices at 180 Howard Street, San Francisco, CA 94105 Attn: Bill Brauer, Procurement Officer true and correct copies of its insurance policies required above, and certificates of such insurance within seven (7) days of the execution of this agreement. Each such policy will name the State Bar as an additional insured and will state that the vendor's policy shall be primary and that any insurance carried by the State Bar shall be noncontributing with respect thereto. Each such policy will provide for thirty (30) days prior written notice to the State Bar in the event of cancellation or reduction in coverage or amount. If the vendor fails to secure and maintain insurance policies complying with the provisions of this agreement, the State Bar may purchase the appropriate insurance policies and the vendor will pay upon demand the cost of it to the State Bar or the State Bar may terminate this agreement.

In addition to the insurance required to be obtained and maintained by the vendor, if the vendor assigns any portion of the duties under this agreement in accordance with the terms, hereof, each subcontractor or assignee will purchase and maintain the same insurance coverage required hereunder.

The vendor will immediately notify the State Bar if the vendor's commercial general liability insurance contains restrictive endorsements other than those restrictive endorsements normally included in the State of California. If the vendor's commercial general liability insurance contains such restrictive endorsements, the vendor shall have five (5) business days to remove said restrictions. If the vendor is unable to do so, the State Bar may terminate this agreement, and will be required to give the vendor no more than two (2) days' notice of such termination, anything in this agreement to the contrary notwithstanding.

G. Termination

1. **At Will.** The agreement may be terminated by the State Bar, in its sole discretion, upon fourteen (14) days written notice to Vendor. In the event of termination pursuant to this section, Vendor's sole compensation shall be for that portion of the Services performed to the date of termination, together with reimbursable expenses, if any then due, pursuant to the Agreement. Vendor shall not be paid for any Services or reimbursable expenses associated with any work or service that was not specifically authorized by the State Bar.
2. **Authorization of Funds.** If the term of the agreement extends into fiscal years subsequent to that in which it is approved, such continuation of this agreement is contingent upon the authorization of sufficient funds for such purpose by the California State Legislature. If funds sufficient to effect such continued payment are not authorized, the vendor agrees to relieve the State Bar of any further obligation therefore.
3. **Default by Vendor.** The agreement may be terminated by the State Bar upon seven (7) days written notice to the vendor in the event the vendor is in default under any of its provisions. In the event this agreement is terminated due to the default by the vendor, the vendor will not be entitled to receive any compensation for services performed or for any reimbursable expenses incurred. The State Bar will have the right to have the services completed by other parties and the vendor will reimburse the State Bar for the actual costs to complete the services in excess of the balance of the fee and reimbursable expenses, if any, provided for in the agreement. Any such act by the State Bar will not be deemed a waiver of any other right or remedy of the State Bar, including, without limitation, the State Bar's right to consequential damages caused directly or indirectly by the vendor's default.
4. **Automatic Termination.** This agreement will automatically terminate on the occurrence of any of the following events: (a) bankruptcy or insolvency of either party; (b) sale of the business of either party; (c) failure to comply with federal, state

or local laws, regulations or requirements or (d) expiration of the agreement.

H. Confidentiality and Publicity

The vendor will retain any and all confidential information provided by the State Bar in the strictest confidence and will neither use it nor disclose it to anyone other than employees requiring the information to perform services under this agreement without the prior written consent of the State Bar. The State Bar retains the right to enjoin any unauthorized disclosure in an appropriate court of law. The vendor will not issue any public announcements concerning the State Bar without the prior written consent of the State Bar. These confidentiality provisions will survive the expiration or termination of the Agreement.

I. Nondiscrimination

The vendor will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), sex or sexual orientation. The Vendor will comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and applicable regulations promulgated there under (California Administrative Code, Title 2, section 7285.0 et seq.). The vendor will include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this agreement.

J. Assignment/Subcontracting

1. **Assignment.** The vendor will not assign or transfer its interest, in whole or in part, under this agreement, without the written consent of the State Bar, which consent may be granted or withheld in the sole and absolute discretion of the State Bar. The vendor acknowledges that the State Bar's obligations under this agreement primarily concern the financial ability to carry through the terms of payment. Therefore, the State Bar may assign or transfer part or all of its interest in this agreement, provided that such assignment shall not become effective, and the State Bar will not be released from its obligations under this agreement, until such time as the State Bar or the State Bar's assignee makes payment to the vendor of all fees and payments then due and payable to the vendor.
2. **Subcontracting.** The Vendor may subcontract with other qualified firms or individuals as required to complete all, or a portion of, the delivery of equipment and services, subject to the written approval of the State Bar.

The Vendor will clearly describe the reason for using any subcontractors, the specific role each subcontractor will play in the project, and the relationship between the Vendor and its subcontractor to be maintained during the term of this agreement. Any such proposed subcontract shall be subject to the written approval of the State Bar prior to award of such subcontract by the Vendor. No subcontract

will be approved unless the Vendor provides a written guarantee that the Vendor's firm will be contractually obligated to assume all project responsibilities and the insurance requirements set forth above.

K. General Provisions

1. **Force Majeure.** Neither party will be deemed in default of this agreement or any provision hereunder to the extent that any delay or failure in the performance of the obligations of such party (other than the payment of money) results from any significant and material causes beyond its reasonable control and without fault or negligence by such party. Examples of such causes include, but are not limited to, (1) acts of God or public enemy, (2) acts of the government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) embargoes, (9) earthquakes, and (10) unusually severe weather.
2. **Governing Law.** The agreement will be governed by the laws of the State of California without giving effect to its principles of conflict of laws.
3. **Attorneys' Fees.** In the event either party institutes any action or proceeding against the other party relating to the agreement, the unsuccessful party in such action or proceeding will reimburse the successful party for its disbursements incurred in connection therewith and for its reasonable attorneys' fees as fixed by the court. In addition to the foregoing award of attorneys' fees to the successful party, the successful party in any lawsuit shall be entitled to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this agreement into any judgment.
4. **Arbitration.** Any question, claim or dispute arising out of or in connection with the agreement in excess of Five Thousand Dollars (\$5,000.00) shall be referred to binding arbitration, except with respect to disputes regarding breaches of confidentiality. Such arbitration shall take place before a single arbitrator in the City and County of San Francisco, and shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. The arbitrator shall apply legal principles in accordance with California law. By agreeing to this arbitration clause, neither party waives applicable defenses or immunities available to it under California law. Any arbitration demand made under this clause must be made no later than one year from the expiration or termination of this agreement. The cost of the arbitration shall be borne equally by the parties, each party to pay its own fees and costs. Disputes of Five Thousand Dollars (\$5,000) or less shall be handled in Small Claims Court in the City and County of San Francisco.

ATTACHMENT A

SAN FRANCISCO TO LOS ANGELES DELIVERY SERVICE

Daily Pick Up Base Rate: _____ includes the first _____ pounds.

Cost per Pound After Base Rate: _____

LOS ANGELES TO SAN FRANCISCO DELIVERY SERVICE

Daily Pick Up Base Rate: _____ includes the first _____ pounds.

Cost per Pound After Base Rate: _____

FUEL SURCHARGE

Is there a fuel surcharge? ☐ Yes ☐ No

If yes, is this a flat rate or percentage of shipment charge? Please describe.

METHOD OF PAYMENT

Do you accept a corporate VISA as method of payment? ☐ Yes ☐ No

PICK UP AND DELIVERY REQUIREMENTS

Are you able to meet all the pick up and delivery requirements outlined in Section III, "Statement of Work"?

☐ Yes

☐ No. Please describe restrictions if any:
